

# EXHIBIT F

DEPOSITION OF DEPUTY HUY NGUYEN

IN THE UNITED STATES DISTRICT COURT  
IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA

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PATRICIA HIVES, individually )  
and as co-successor in interest )  
to Decedent Jacorey Calhoun, )

Plaintiff, )

vs. )

Case: 4:15-CV-02490-DMR

COUNTY OF ALAMEDA, a municipal )  
corporation; DEREK THOMS, )  
individually and in his official )  
capacity as deputy for the )  
COUNTY OF ALAMEDA, et al., )

Defendants. )

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M.C., by and through his )  
guardian ad litem ARION )  
GUILLORY, )

Plaintiff, )

vs. )

COUNTY OF ALAMEDA, a municipal )  
corporation; DEREK THOMS, )  
individually and in his official )  
capacity as deputy for the )  
COUNTY OF ALAMEDA, et al., )

Defendants. )

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DEPOSITION OF DEPUTY HUY NGUYEN

THURSDAY, MAY 12, 2016

REPORTED BY: LISA L. JONES, CSR #12982

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1 MR. LACY: Q Well, what was your  
2 understanding of what he was wanted for?

3 A Carjacking.

4 Q Okay.

5 A Armed carjacking.

6 Q Okay. Armed carjacking?

7 A Yes.

8 Q Your understanding was that this person had  
9 just carjacked a vehicle?

10 A That was the initial call, yes.

11 Q But when you got there and you heard officer --  
12 Deputy Corey and Deputy Thoms talking with OPD police  
13 officers, what did you hear them saying as it relates to  
14 the suspect?

15 A It was actually a home invasion suspect that  
16 pistol-whipped a victim and then fled in a vehicle.

17 Q Okay. What was your understanding of when that  
18 incident had occurred?

19 A I believe it had just occurred.

20 Q Do you know who gave you that understanding?

21 A It was an OPD sergeant, who was briefing us on  
22 what had just happened.

23 Q Okay. Had you ever worked with this sergeant  
24 before?

25 A No.

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1 Q Did you discuss -- did you interject anything  
2 in the discussion or did you just listen?

3 A Just listened.

4 Q Okay. Did Deputy Thoms give you any  
5 instructions at that particular time, while they were  
6 discussing what was going to happen in regards to this  
7 search for this person?

8 A No.

9 Q Did you have an understanding of whether or not  
10 this person you were looking for was armed?

11 A Yes.

12 Q What was your understanding?

13 A That he was -- after the pistol-whipping and  
14 the pursuit, they searched the vehicle he fled in, and  
15 there was no firearm located in the vehicle.

16 Q Okay. So what did that mean to you?

17 A That means that he still had his firearm with  
18 him, because it wasn't in the vehicle.

19 Q Okay. So your understanding was that because  
20 there was no weapon found in the vehicle that this  
21 person was armed?

22 A Yes.

23 Q Are there any special considerations that you  
24 give or were trained to give when searching for an armed  
25 person?

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1 A Yes.

2 Q Could you tell me about them.

3 A It just -- if we're searching for an armed  
4 suspect, that we also have our firearms out.

5 Q Okay. Why is that?

6 A Because of the heightened danger of an armed  
7 suspect.

8 Q Okay. So you had your firearm out?

9 A Yes.

10 Q Do you have a flashlight or anything on your  
11 firearm?

12 A Yes.

13 Q What type of firearm do you have?

14 A A Sig Sauer.

15 Q A Sig Sauer?

16 A Yes.

17 Q What caliber?

18 A .357 Sig.

19 Q Okay. And how many rounds does that hold?

20 A It holds 12 in the magazine and one in the  
21 chamber.

22 Q Okay. Did you have your flashlight or your  
23 light for your gun on when you had it drawn?

24 MR. MURPHY: Objection. At what point in time?

25 MR. LACY: At any point in time.

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1 recollection of what residence you went to first?

2 A Yes.

3 Q It's my understanding you searched several  
4 residences; is that right?

5 A Yes.

6 MR. MURPHY: And I'll just object as vague.

7 When you say, "residence," do you mean yards or  
8 are you talking about interiors of homes?

9 MR. LACY: Q Do you have an understanding  
10 of what I'm asking?

11 A Yes.

12 Q Okay. I'm going to show you a map here,  
13 Deputy Thoms, and -- or not Deputy Thoms --  
14 Deputy Nguyen. Here I go again, man. I promise you,  
15 you look nothing like Deputy Thoms.

16 A Yep.

17 MR. LACY: And we won't mark this just yet.  
18 Maybe we will and maybe we won't.

19 Counsel.

20 MR. MURPHY: Thank you.

21 MR. LACY: Q What I'm showing you is a  
22 Google printout of the same location that is  
23 depicted in this diagram; is that fair to say?

24 A Yes.

25 Q Does this show the residence that you searched

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1 first?

2 A Yes.

3 Q Can you point to it, please.

4 And it looks like the larger building here at  
5 the -- kind of the end of a corner; is that right?

6 A Yes.

7 Q That, as far as I understand, is not a regular  
8 home or residence; is that right?

9 A Yes.

10 Q Do you know what type of building this is?

11 A I believe it was either an apartment or a  
12 condominium style housing.

13 Q Okay. Did you make a plan about how you're  
14 going to enter this apartment complex or condominium  
15 area before you entered?

16 A Yes.

17 Q Did you make that plan after you heard about  
18 who the suspect was and what you were going to do?

19 A Yes.

20 Q Who made the plan with you; was that sergeant  
21 from OPD making the plan with you?

22 A Yes.

23 Q And what was the plan that was made?

24 A We were going to start the search on Edes and  
25 just work our way down.

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1 Q After you searched the yard, then you went  
2 inside; is that right?

3 A Yes.

4 Q And the same stacked formation?

5 A For the most part.

6 Q Okay. I would imagine at some point you kind  
7 of fan out and secure different areas; is that right?

8 A Yes.

9 Q Didn't find anybody, right?

10 A No.

11 Q What's the next house that you go to?

12 A We actually went around to Acalanes, and we  
13 started working our way east through the homes there,  
14 and then I don't know what the numbers are, but it goes  
15 from apartments to homes on Acalanes Drive.

16 Q Do you know or have a recollection of how many  
17 homes you searched on Acalanes?

18 MR. MURPHY: Does your question imply that they  
19 entered residences?

20 MR. LACY: I don't know.

21 THE WITNESS: Between two and three different  
22 properties.

23 MR. LACY: Q Okay. Can you see the  
24 properties on this Google maps --

25 A Yes.



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1 Q Okay. After you searched that house, did you  
2 go to the next house and search that house, too?

3 A No, I don't believe so.

4 Q What did do you? What happened?

5 A We searched the rear yard of that house and  
6 then from that house -- from that rear yard is -- after  
7 we searched that house is when the shooting happened.

8 Q Okay. When you were searching the rear yard of  
9 that house the shooting happened, or after you searched  
10 the rear yard of that house?

11 A Yeah.

12 Q Was it dark in that rear yard?

13 A Yes.

14 Q Did you use your flashlight in that rear yard?

15 A Yes.

16 Q As I understand it, there was somebody standing  
17 on a roof or something like that?

18 A Yes.

19 Q Was he communicating to you anything he saw?

20 MR. MURPHY: At any time?

21 MR. LACY: At any time.

22 THE WITNESS: No, not to me.

23 MR. LACY: Q Was he communicating to  
24 anyone on the search team?

25 A I believe some of the information was going to

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1 Oakland through Oakland radio.

2 Q Okay. You don't get the Oakland radio?

3 A No.

4 Q Okay. When you were searching this backyard,  
5 after you see the person and you realize this is not the  
6 suspect you're looking for, do you see the dog that they  
7 said might be in that backyard, too?

8 A No.

9 Q At some point, does Officer Thoms indicate to  
10 you that he believes his canine has located someone?

11 A No.

12 Q What are you doing -- well, I'll ask you this:  
13 What's the first time you become aware that  
14 Deputy Thoms' canine may have located someone?

15 A When Deputy Thoms -- it would be west, so we're  
16 searching -- we're going north, down that resident's  
17 driveway, and we get to the rear yard, and Deputy Thoms'  
18 canine goes west to a wooden fence and kind of just  
19 stays at that fence.

20 Q Okay. Did you hear Deputy Thoms give the  
21 canine any commands?

22 A Yes.

23 Q And did you see the dog react in response to  
24 the commands that Deputy Thoms gave him?

25 A Yes.

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1 Q What did the dog do?

2 A It kind of sat or laid down.

3 Q Okay. How far away from you was the dog at  
4 this time?

5 A Between eight and ten feet, I would say.

6 Q After the dog sat, do you recall what happened?

7 A Some -- I'm not sure if -- I heard someone say  
8 there was movement or someone was running.

9 Q Okay. What happens after you hear someone say  
10 that?

11 A And then --

12 Q What are you doing when you hear somebody say  
13 that, I'll ask that.

14 What are you doing when you hear somebody say  
15 that?

16 A I am trying to get -- I'm -- I was walking  
17 towards Deputy Thoms, getting closer.

18 Q Okay. Was Deputy Thoms standing right next to  
19 his dog?

20 A Fairly close.

21 Q Closer than you were?

22 A Yes.

23 Q Closer than five feet?

24 A I don't recall.

25 Q Closer than we are to each other right now?

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1 A On the driver side.

2 Q Of the hood?

3 A Yes.

4 Q Was he crouched? Was he standing up straight?

5 MR. MURPHY: Objection. Vague as to time.

6 At what point?

7 THE WITNESS: He was just standing up straight.

8 MR. LACY: Q Okay. Was his flashlight on

9 or the light for his gun?

10 A I don't recall.

11 Q Was the area well lit?

12 A No.

13 Q Could you see the suspect?

14 A No.

15 Q Could you see Zina?

16 A No.

17 Q Okay. Before you climbed the fence, Deputy

18 Thoms fires some shots; is that right?

19 A Yes.

20 Q Do you hear him give any commands before he  
21 fires his shots?

22 A Yes.

23 Q what do you hear him say?

24 A "Show me your hands. Show me your hands."

25 Q Okay. Any other commands?

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1 A No.

2 Q What did you think was happening when you heard  
3 Deputy Thoms giving the commands, "show me your hands.  
4 Show me your hands"?

5 MR. MURPHY: Objection. Calls for speculation.

6 THE WITNESS: I thought he located the suspect.

7 MR. LACY: Q Okay. Did it occur to you  
8 then that it was extremely important that you get  
9 over the fence as quickly as you can?

10 A Yes.

11 Q Why?

12 A Because at that point, I believed Deputy Thoms  
13 was in danger.

14 Q Okay. Why?

15 A Because I believed he was confronting an armed  
16 suspect.

17 Q Okay. Did you hear the shots when Deputy Thoms  
18 fired?

19 A Yes.

20 Q Could you see the flash from his muzzle when he  
21 fired his gun?

22 A No.

23 Q Could you see anything in the yard, adjoining  
24 the yard you were in, when you heard Deputy Thoms firing  
25 his weapon?